



LOK ADALAT - EFFECTIVE MEANS OF DISPUTE REDRESSAL MECHANISM IN INDIA

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ABSTRACT

Lok Adalat is an effective means of alternative to Court litigation system. The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the victims for satisfactory settlement of their disputes. This paper discussed the Journey of Lok Adalat from olden historical period to modernized period i.e. post independence. This paper highlights that Lok Adalat is nothing but the one of the tool of Alternative Dispute Resolution (ADR) system and the whole philosophy of Lok Adalats has been institutionalized on the older concept of dispute resolution through negotiation, mediation, arbitration used by Nyaya Panch. This paper also highlights constitutional mandate of Article 39-A regarding Lok Adalat system and evolution of Legal Services Authorities Act, 1987 for providing speedy and early settlement of dispute among the parties.

KEYWORDS: Lok Adalat ; Alternative Dispute Resolution (ADR); Nyaya Panchayat.

*"Lok Adalat has the potential for social reconstruction and legal mobilization for social change. It can influence the style of administration of justice and the role of the lawyer and judge in it. It can take law closer to the life of the people and reduce disparity between law in books and law in action."*¹

- Prof. Madhava Menon

INTRODUCTION:

'Lok Adalat' is one of the popular alternative dispute resolution systems in India for providing speedy and economical justice. The institution of Lok Adalat in India, as the very name suggests, means, People's Court. "Lok" stands for "people" and the term "Adalat" means court. The concept of Lok Adalat is an innovative Indian contribution to the world jurisprudence. The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the victims for satisfactory settlement of their disputes.

As per **Justice Ramaswamy** *"Resolving disputes through Lok Adalat not only minimizes litigation expenditure, it saves valuable time of the parties and their witnesses and also facilitates inexpensive and prompt remedy appropriately to the satisfaction of both the parties."*

Lok Adalat system is based on Gandhian principles. It is one of the components of ADR systems. It is an Indian contribution to the world jurisprudence of ADR. Lok Adalat (people's courts), established by the government settles dispute by the principles of justice, equity and fair play, which are the guiding factors for decisions based on compromises to be arrived at before such Adalats. The camps of Lok Adalats were initially started in the state of Gujarat in 1982. The first Lok Adalat was organized on 14th March 1982 at Junagarh. Maharashtra commenced the Lok Nyayalaya in 1984. The movement has now subsequently spread to the entire country. The reason to create such camps was only the pending cases and to give relief to the litigants who were in a queue to get justice.²

It is that human right which covers not only bare court entry but has many dimensions including time consuming factor. For We the People, the vision of justice as embodied in the Constitution entails delivering quality of justice (impartial and steadfast) which is speedy, accessible and distributive in nature.³

The Lok Adalat was conceptualized due to the drawbacks of the Indian legal system to provide efficient, effective, and low cost justice. The evolution of this concept was a part of the plan to relieve the heavy burden on the Courts. The pendency of cases is a bane to the judiciary, and to the people who come to the court in the dream of getting justice.

Lok Adalat concept in pre Independence era:

India has a recorded legal history starting from Vedic ages. The evidence can be traced from the ancient texts the Vedas, smriti, Upanishads & Arthashastra. The ancient Indian law was based on Dharma principle (natural justice) it was secular in nature. The Manu smriti & Arthashastra were considered as the authoritative legal guidance. The concept of providing a justice at the local level (people's court) is as old as the villages its origin goes back to the Vedic ages. The popular courts were first time mentioned in the yajnavalkya smriti. The courts existed in ancient period were named as Kula, Sreni, Gana the idea behind these was to provide proper justice to every single person of society without any delay.⁴

Lok Adalat has originated from an old form of Justice delivery system which was prevalent since vedic times. In ancient India the disputes were settled on basis of principles of honesty, fair play and moral character which is in core structure of Indian culture and civilization. The said system was present in the ancient India at the village level in name of People's Court or Popular Court or Panchayats. The village Panchayats or People's Court, as an important and indispensable part of justice delivery system, played a very important role in those times. The relevance and functioning of this system has been discussed in the texts of Yajnavalkya, Narad, Gautama, Kautilya Brihaspati, Manu and Bhargu. Generally, these People's Court was of three kinds namely Puga, Sreni and Kula.⁵

It is true that the Britishers applied their own justice system through which they established formal courts in India. But the study shows that in beginning in the rule of East India Company some local courts were also found which functioning almost on the line of village Panchayats. These courts were remodeled from time to time by the company as according to its interest. The company also sometimes established new courts of minor jurisdiction on the model of village tribunal or panchayats for administering justice. These courts were necessarily of minor jurisdiction which followed the simple and speedy procedure unattended by any rigid formality or technicality. Reference may be made in this connection to the Choultry Court at Madras, the Court of Conscience in Bombay and the Court of Requests at each of the Presidency towns of Calcutta, Madras and Bombay.⁶

The British frowned upon administering of justice through People's Courts or village Panchayats and established their own courts to render justice in civil and criminal matters. They modified the ancient Indian legal system according to their vested interest with the result that the functioning of people's court died a slow death away and became empty and suffocating with engulfing nothingness. In this way, they gave a death blow to the functioning of people's courts.⁷

In beginning of post independence era, Nyaya Panchayats worked effectively in most of the States of the country and incorporated several distinctive features. First, these were established by the government, and had jurisdiction over both civil and criminal cases arising in the villages. Secondly, they functioned on the broad principle of natural justice and tended to remain procedurally as simple as possible. Thirdly, they were separate from other rural institutions such as village panchayats, vikas parisads, sahakari samitis and the like. This was so in order to ensure a degree of nonpartisan approach in their working and implement the principle of separation of executive from judiciary. Fourthly, Nyaya Panchayats were not required to follow, *in toto*, the provisions of the Criminal Procedure Code, the Civil Procedure Code, the Evidence Act and other procedural laws. Similarly in order to retain simplicity, legal practitioners found no place in the proceedings of Nyaya Panchayats. Fifthly, Nyaya Panchayats dispensed justice to the villagers with speed, economy and effectiveness. Therefore, the Nyaya Panchayat retained the some of the features of the traditional Panchayats.⁸

Lok Adalat Concept after Independence:

After a long struggle, India got freedom on August 15, 1947. It was the dream of freedom fighters that the dawn of independence will bring many golden things to the people of India. The right to access to justice by restructuring of the judicial system at grass-root level may be said to be one of them. It was, therefore, realized by the wise founding fathers of the Constitution that the Anglo-Saxon judicial system must be reorganized so as to make legal relief easily accessible to the poor, downtrodden and backward in our villages.

Further, the Legal Aid Committee constituted by Gujarat Government, recommended in its report that revival and reorganization of Nyaya Panchayats was necessitated by the circumstances to have easy access of the rural population to the lower Courts and provide cheap and expeditious justice to them in small cases arising out of their life.⁹ Keeping in view the increasing importance of the settlement of disputes through people's participation at grass root level, the Ashoka Committee (1978) merely reiterated the recommendations made by Balwantrai Mehta Committee (1957) and agreed to proposals for extensive of Nyaya Panchayats jurisdictions. The Committee found that Panchayati Raj Institutions had performed a magnificent role and expressed the hope that these institutions can do a promising role in the administration of justice.

The modern version of Lok Adalat has arisen out of the concern expressed by the various committees setup to resort on organizing legal aid to the needy and poor people and alarm generated by judicial circle on mounting arrears of cases pending for long time at different levels in the court system.¹⁰ Justice P. N. Bhagwati and Justice Krishna Iyer, laid emphasis on need for revival of the informal system of dispute resolutions including Nyaya Panchayats. They mobilized social action groups, public spirited citizens and a section of lawyers to experiment settlement of disputes outside the courts.¹¹ They were of the opinion that to have an effective system it must be informal, least expensive, generally deprofessionalized, expeditious and justice oriented.

Alternate Dispute Resolution (ADR) and Lok Adalt:

Providing a justice through established court system was quiet difficult and expensive. Court system was based on technicalities and high litigation fees which to the poor people's made justice unreachable. This hectic nature of justice delivery leads to the search of ADR. ADR is an alternative to the formal legal system ADR introduced non hostile mechanism. The dispute resolution is an important element in society for maintaining peace, harmony, brotherhood, goodwill & easy access to justice. The main motive of ADR is to make justice available, inexpensive and quicker to poor and needy.¹²

Lok Adalat is an important means of alternative dispute resolution method. The complete machinery of Lok Adalats has been introduced with the purpose of promoting justice. Lok Adalats generally means "people's court". Lok Adalat is a tool of "ADR" alternate dispute resolution. The notion of Lok Adalat is a creative contribution towards the world jurisprudence and to provide extended legal protection to the poor. The whole philosophy of Lok Adalats has been institutionalized on the older concept of dispute resolution through negotiation, mediation, arbitration used by Nyaya Panch.

Lok Adalat is a mix of each of the three types of customary ADR: Arbitration, Mediation, and Negotiation. They utilize appeasement, with components of arbitration given that choice are ordinarily authoritative, and are a representation of lawful decentralization as clashes are come back to groups from whence they began for nearby settlement.¹³

Scope and object of Lok Adalat:

The intention behind the reorganization of the indigenous judicial system is to ensure people's participation in the administration of justice at the lowest level which will ultimately help in delivering justice to the poor and the backward in rural areas without any delay and at practically no cost. It would certainly assist them in asserting their legal rights against those who are inclined to violate them. They are also expected to remove many of the defects of the British System of administration of justice.

However, the modern version of Lok Adalat arose out of the fact that the present judicial system as forum for resolving conflicts, civil, criminal and revenue resulted in monumental wastage of time in deciding cases. Litigants have often found themselves impaled on this unholy trident of delay, cost and complexity with the result that the accumulated frustration of the people desirous of quick decision has responded them with hope, excitement, and zeal to experiment in "holding Lok-Adalat's for dispute ending for dispute pending." Thus the idea for the need of a Lok-Adalat as a different kind of forum for expeditious settlement of disputes is currently sweeping the nation.

Lok Adalat is effective means of alternative to Court litigation system. This very concept of settlement of dispute through mediation, negotiation or through arbitral process known as decision of "Nyaya-Panchayat" is conceptualized and institutionalized in the philosophy of Lok Adalat. It involves people who are directly or indirectly affected by dispute resolution. Lok Adalats have competence to deal with a number of cases like compoundable civil, revenue and criminal cases, motor accident compensation claims cases, partition claims, damages cases, matrimonial and family disputes, mutation of lands case, land pattas cases, bonded labour cases, land acquisition disputes, bank's unpaid loan cases, arrears of retirement benefits cases, family court cases etc.

"Lok Adalat" is defined as a "forum where voluntary effort aimed at bringing about settlement of disputes between the parties is made through conciliatory and pervasive efforts". The first Lok Adalat was held in Chennai in 1986. Soon this programme was adopted by several other states, such as Bihar, Haryana, Karnataka, Maharashtra etc. and now gained popularity throughout the country. The Legal Services Authorities Act, 1987 implemented in its true spirit has cre-

ated popularity for and utility of Lok Adalat for speedy resolution of disputes. It is believed that the "Lok Adalat" is an old form of arbitrating system which had been prevailing in early India and its validity has not been taken away even in the modern days too. As the Indian Courts are overburdened with the backlog of cases and the regular Courts are to decide the cases involve a lengthy, expensive and tedious procedure. The Court takes years together to settle even petty cases. Lok Adalat therefore provides alternative resolution or devise for expeditious and inexpensive justice.¹⁴

Indian Legal system and Lok Adalat:

Entire system of judiciary is base on the principle of equal justice to everyone as constitution of India provides right to equality under Article 14-18 where it is clearly mentioned that there will be equality before law no discrimination is based on the bases of cast, color, sex, religion. And every citizen of India has a right to constitutional remedies under Article 32. Article 32 is considered as the soul of the constitution- Dr. B.R. Ambedkar.¹⁵

The 42nd amendment Act of constitution of 1976, Article 39-A, has been inserted which requires the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The entire mechanism of Lok Adalat designed and evolved is with the object of promoting justice. Justice has three connotations namely social, economic and political. 'Access to Justice' means an ability to participate in the judicial process. It is that human right which covers not only bare court entry but has many dimensions including time consuming factor.¹⁶

Lok Adalat is an improved mechanism for Indian Citizens because it is based on the principles of Father of Nation Mahatma Gandhi. The entire process of Lok Adalat reflects that India is a democratic Country. The credit of originating this system for speedy justice to common man goes to Hon'ble Justice P. N. Bhagwati, the former Chief Justice of the Supreme Court of India who started Lok Adalats. Thereafter the passing of Legal Service Authority Act in 1987, the decisions of Lok Adalats got statutory validity and now the concept of Lok Adalats has become a powerful legal instrument. Thus Lok Adalat system is to solve the problems, it is not for declaration of winner or loser.¹⁷

The legal system as it operates in India, wrong is regarded as a matter of course. Excessive burden of cases remains upon the judiciary and under such a situation justice is delayed many times. Unfortunately, the most prominent deficiency of our legal system is that it has remained 'alien having no living contact with the masses'.¹⁸ The entire mechanism of Lok Adalats designed and evolved is with the object of promoting justice. Justice has three connotations namely social, economic and political. The first two connotations are handled by the said mechanism. They not only give an opportunity to the parties to resolve disputes but such resolution is at lowest possible cost, achieved amicably with consent of parties concerned. 'Access to Justice' means an ability to participate in the judicial process.¹⁹

Legal Services Authorities Act, 1987:

The advent of Legal Services Authorities Act, 1987 gave a statutory status to Lok Adalats, pursuant to the constitutional mandate in Article 39-A of the Constitution of India, contains various provisions for settlement of disputes through Lok Adalat. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity. The Legal Services Authorities Act 1987 constitutes the two objectives specifically, providing legal aid services and organizing Lok Adalats for providing justice to the people at their doorsteps.

Even before the enforcement of the Act, the concept of Lok Adalat has been getting wide acceptance as People's Courts as the very name signifies. Settlement of disputes at the hands of Panchayat Heads or tribal heads was in vogue since ancient times. When statutory recognition had been given to Lok Adalat, it was specifically provided that the award passed by the Lok Adalat formulating the terms of compromise will have the force of decree of a court which can be executed as a civil court decree. The evolution of movement called Lok Adalat was a part of the strategy to relieve heavy burden on the Courts with pending cases and to give relief to the litigants who were in a queue to get justice. It contains various provisions for settlement of disputes through Lok Adalat. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.²⁰

Gram Nyayalayas Act, 2008:

It came into effect from October 2, 2009 has been enacted to provide for the establishment of the Gram Nyayalayas at the grass roots level for the purpose of providing access to justice to the citizens at their door steps. The Gram Nyayalaya shall be established for every Panchayat at intermediate level or a

group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Panchayats.

It shall be a mobile court and where the Gram Nyayalaya decides to hold mobile court outside its headquarters, it shall give wide publicity as to the date and place where it proposes to hold mobile court. It shall exercise the powers of both Criminal and Civil Courts. Its seat will be located at the headquarters of the intermediate Panchayat; they will go to villages, work there and dispose of the cases. It shall try to settle the disputes as far as possible by bringing about conciliation between the parties and for this purpose. It shall use of the conciliators to be appointed for this purpose.²¹

Presently, Lok Adalat is considered to be one of the best Alternative Disputes Resolution Systems. Just like every other system, Lok Adalat is also having several virtues and it suffers from few ill as well. As it is rightly said that, "Justice delayed is a Justice denied but Justice hurried is a Justice buried". Keeping this fact in mind, the higher judiciary in many of its judgments directed that, the speedy proceeding conducted by way of Lok Adalat should not impair the right of any party.²²

CONCLUSION:

In the light of above discussion, it can be concluded that Lok Adalat provides speedy and early settlement of dispute among the parties which is boon for Indian legal system. After going through the various ancient literature it can be seen that the village Panchayats or People's Court, as an important and indispensable part of justice delivery system in India. After independence, the enormous growth of global trade and delay in the disposal of cases in normal courts made it imperative to go for an Alternative Dispute Resolution (ADR) system. Amicable settlement of disputes is very much essential for the maintenance of social peace and harmony in the society.

Therefore Lok Adalat becomes an effective part of Indian legal to give speedy chief and accessible justice for all. Through the Lok Adalat Indian society gets a highly sensitized legal service which is efficacious for the poor and the down-trodden. It can be said that Lok Adalats play a very important role to advance and strengthen "equal access to justice", which is the ultimate goal of Constitution of India.

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